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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

Report of the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to General Assembly resolution 67/121 concerning Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem. The report examines themes identified in the resolution. These include Israeli policies and practices that are fragmenting the territory and affecting the demography of the Occupied Palestinian Territory and undermining the right to self-determination of the Palestinian people. They also include actions by the Israeli security forces, with a focus on killings and injuries of civilians in the context of hostilities and during law enforcement operations. The report gives significant attention to the extent to which alleged violations of human rights and international humanitarian law are investigated and violators held accountable by both the Government of Israel and Palestinian institutions. The report covers the period from 16 June 2012 to 30 June 2013.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 67/121. In the resolution, the Assembly, among other things, reiterated the need for respect for the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory and for guarantees of the freedom of movement of persons and goods within the Palestinian territory, including movement into and from East Jerusalem, into and from the Gaza Strip, between the West Bank and the Gaza Strip and to and from the outside world. It demanded that Israel cease all practices and actions that violate the human rights of the Palestinian people, including the killing and injury of civilians. The Assembly also emphasized the need to preserve and develop Palestinian institutions and infrastructure for the provision of vital public services to the Palestinian civilian population and the promotion of human rights, including civil, political, economic, social and cultural rights.

2. The report covers the period from 16 June 2012 to 30 June 2013, with the additional inclusion of relevant background information. The information contained in the report is based primarily on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities in the Occupied Palestinian Territory. It also contains information obtained from Israeli, Palestinian and international non-governmental organizations (NGOs), human rights defenders and media sources. The report does not provide a comprehensive account of all human rights concerns in the Occupied Palestinian Territory and should be read in conjunction with other recent reports of the Secretary-General and the High Commissioner (A/67/372, A/67/375, A/HRC/22/35 and Add.1 and A/HRC/24/30).

3. Two main themes are covered in the report. First, the report examines Israeli policies and practices that are fragmenting the territory of the Occupied Palestinian Territory and physically separating its population, thereby undermining a number of human rights, including the right to freedom of movement and the right to self-determination of the Palestinian people. Second, it addresses actions taken by the Israeli security forces focusing on the killing and injuring of civilians in the context of hostilities and during law enforcement operations. The extent to which alleged violations of human rights and international humanitarian law are investigated and violators held accountable, by both the Government of Israel and Palestinian authorities, is given significant attention. While the report notes some positive steps taken by the Government of Israel and Palestinian authorities regarding accountability, it points to concerns in a number of areas.

4. The applicable legal framework for the present report is international humanitarian law and international human rights law, as set out in previous reports submitted to the General Assembly and reports of the High Commissioner for Human Rights submitted to the Human Rights Council.[1]

[1] A detailed analysis of the applicable legal framework is set out in A/HRC/12/37, paras. 5-9. This analysis remains valid. See also A/67/375, paras. 4 and 5.

II. Implementation of resolution 67/121

A. The policy of separation and Israeli practices affecting the character, status and demographic composition of the Occupied Palestinian Territory

5. As noted by the Secretary-General in 2012, the right to self-determination is generally understood as having several elements, including a demographic and territorial presence and permanent sovereignty over natural resources. In the Occupied Palestinian Territory, these elements are adversely affected by the presence and expansion of Israeli settlements. The Secretary-General also noted that the fragmentation of the West Bank undermines the possibility of the Palestinian people realizing their right to self-determination through the creation of a viable state (see A/67/375, paras. 10 and 11). Additionally, the Secretary-General noted in his previous report (A/67/372) that evictions and house demolitions, revocation of residency rights, access and movement restrictions and the continued construction of the wall are affecting the character, status and demographic composition of the Occupied Palestinian Territory. As reported below, the same Israeli practices have continued throughout the period under review.

6. A wide range of Israeli policies and practices contribute to the separation of Gaza from the West Bank and within the West Bank itself. These policies and measures include, but are not limited to, the blockade of Gaza, the closure regime in the West Bank, including the continued construction of the wall, the access-restricted areas in Gaza, the demolition of houses and eviction of their inhabitants, the transfer of its own citizens into occupied territory, the revocation of residency rights in East Jerusalem, control of the population registry and the use of Palestinian natural resources. In the case of denying family visits to Palestinians from Gaza in Israeli detention, the responsible Israeli authority explicitly stated that it is a part of a policy to separate Gaza from the West Bank.[2] Israel also continues to implement measures inducing Palestinians to leave their land in Area C and East Jerusalem, further affecting both the territorial and the demographic unity, contiguity and integrity of the Occupied Palestinian Territory. The cumulative result of these measures, policies and practices, despite a few recent positive developments, has been the erosion of the social fabric of Palestine, the undermining of Palestinians' right to self-determination and the constant violations of the rights to freedom of movement, an adequate standard of living, adequate housing, work, education and health.

B. Gaza

Impact of the blockade on human rights

7. According to the Oslo Accords of 1993 and the Agreement on Movement and Access of 2005, the Gaza Strip and the West Bank comprise a single territorial unit, and Israel agreed to provide "safe passage" for people and goods between the two

[2] Attributed to the Coordinator of Government Activities in the Territories, Major General Dangot. See Gisha — Legal Center for Freedom of Movement, Update, 6 May 2012.

parts of the Occupied Palestinian Territory.[3] The Agreement, among other things, placed an obligation on Israel to facilitate the movement of goods, including agricultural products, and persons between Gaza and the West Bank. The Agreement prescribed that "passages will operate continuously", and Israel committed that "it will not close a passage due to a security incident unconnected with the passage itself", unless there is "a clear and direct threat to that specific passage". The Agreement also provided that the two crossings, Karni and Erez, could only be closed at the same time if there was a simultaneous threat to both or clear reason to believe that they were "considered as conduits for threats to Israel". In the event of a security incident at one passage, goods and people would be diverted to other crossing points to limit disruptions to Palestinian civilians. Israel has for a number of years, and in particular following the takeover by Hamas of the Gaza Strip in 2007, imposed a blockade, seriously affecting the freedom of movement of Palestinians in and out of Gaza, as well as access within Gaza to the basic goods and utilities needed for an adequate standard of living, housing, education, work and health care.

8. The restrictions on movement of people between Gaza and the West Bank were initiated in September 2000 with the beginning of the second intifada. By March 2005, five months before the evacuation by Israel of the settlements in the Gaza Strip, travel to the West Bank from the Gaza Strip had declined by 98 per cent.[4] Since 2007, Israel has allowed the movement of Palestinians out of Gaza through Israel only in selected humanitarian and other exceptional cases.[5]

9. The movement restrictions are partly a result of the continued control by Israel over the population registry for both the Gaza Strip and the West Bank. According to the Oslo Agreement, formal authority over the population registry was transferred to the Palestinian Authority in 1995, allowing it to grant permanent residency to foreign investors, spouses, children of Palestinian residents and other persons for humanitarian reasons. Israel continued to limit the number of new residents that the Palestinian Authority could allow to register to 2,000 per year. Following the outbreak of the second intifada, Israel suspended the right of the Palestinian Authority to process both permanent residency and change of address applications for Palestinian civilians living in Gaza and the West Bank. This created a backlog of approximately 50,000 cases, which Israel, in 2007, committed to resolving.[6] Approximately 33,000 cases were resolved before applications were again suspended, in March 2009. The suspension means, among other things, that a Palestinian man or woman from Gaza is not entitled to move and live with his or her spouse who is a resident of the West Bank. Israel does, however, allow West Bank residents to relocate to the Gaza Strip in order to reunite with their families on the condition that they "sign undertakings not to seek to return to the West Bank in exchange for permission to travel to Gaza".[7] The cumulative effect of this

[3] "Safe passage", as agreed in annex I, art. X, of the Israeli-Palestinian Interim Agreement of 28 September 1995. See also Security Council resolution 1860 (2009).

[4] Gisha and HaMoked — Center for the Defence of the Individual, "Gaza prison: freedom of movement to and from the Gaza Strip on the eve of the disengagement plan", March 2005.

[5] IRIN News, "Israeli promises of family reunification fall short", 2 November 2012.

[6] Human Rights Watch, *Forget About Him, He's Not Here: Israel's Control of Palestinian Residency in the West Bank and Gaza*, February 2012.

[7] B'tselem, "Separated entities: Israel divides Palestinian population of West Bank and Gaza Strip", September 2008.

negatively affects the right to family unity and the demographic composition of the Occupied Palestinian Territory.

10. The Government of Israel tightened the blockade in September 2007, following the takeover by Hamas of the Gaza Strip, by imposing additional restrictions on the passage of goods. On 19 September 2007, Israel decided to implement new restrictions to allow only a minimum supply of goods with the intention of avoiding "a humanitarian crisis".[8] As a consequence of the blockade and related closure of the three commercial crossings between Gaza and Israel, Gaza's economy became dependent on the import of goods, such as food items, fuel and construction materials, through tunnels along its border with Egypt. In June 2010, Israel eased the restrictions on imports in Gaza, allowing an increased number of truckloads to enter Gaza from Israel. The policy changed from being one which barred all imports with the exception of a small number of items, to one which allowed the entry of all items with the exception of "dual use" items. The increased amount of goods and material did not substantially improve the livelihood of the Gazan population. In addition, Israel, citing rocket fire from Gaza towards Israel and other security reasons, on five occasions between February and June 2013,[9] closed Kerem Shalom, the only functioning commercial crossing between Gaza and Israel (see A/HRC/24/30, para. 11).

11. During the reporting period, Gaza's exports equalled around 1.5 per cent of the pre-blockade level.[10] This continued to directly impact the economic sustainability, livelihoods and development throughout Gaza. The importation of goods through the tunnels between Egypt and Gaza depend largely on the security and political situations in Gaza and Egypt.

12. Between February and June 2013, the Egyptian authorities destroyed several tunnels on the basis of security concerns in the Sinai and tightened restrictions for crossings of persons through the Rafah crossing, contributing to a shortage of fuel, medicine and goods in Gaza.

13. The blockade of Gaza has adversely affected the right of Palestinians to work. The unemployment rate remained one of the highest in the world, with an average in 2012 of 31 per cent of the workforce in Gaza unemployed.[11] The high level of unemployment contributes to the fact that 57 per cent of households in Gaza are food insecure and around 80 per cent are aid recipients.

14. The blockade has negatively affected the enjoyment of the right to health. It has contributed to a shortage of medicines, a lack of adequate medical equipment and a failure to invest in medical facilities in Gaza (see A/HRC/23/21). Some improvement was recorded in terms of the rate of approval of requests for access to Israel for patients in Gaza, rising to 92.5 per cent of requests approved in 2012

[8] Gisha — Legal Center for Freedom of Movement, "Food consumption in the Gaza Strip — red lines", October 2012.

[9] Ibid., "Kerem Shalom crossing remains closed today and travel at Erez crossing is further restricted", 25 June 2013. Available from www.gisha.org/.

[10] Ibid., "The Gaza cheat sheet: real data on the Gaza closure", 7 July 2013.

[11] See Palestinian Central Bureau of Statistics, Labour Force Survey 2012.

compared with a low of only 61 per cent in 2008. In addition, in November 2012, Israel approved the construction in Gaza of a hospital funded by Turkey.[12]

15. The blockade has also undermined the right to education by weakening the education system, in particular the ability to build new schools in response to the serious overcrowding of classrooms, owing in part to restrictions on the entry of construction materials. Some 85 per cent of schools in Gaza operate on a double-shift system with shorter school hours. The United Nations Children's Fund (UNICEF) estimates that 250 new schools are needed at the present time and an additional 190 schools by 2020, in order to accommodate the increase in student population. The 2009 Gaza Recovery and Reconstruction Plan foresaw the construction of 100 new schools, of which 27 have been completed as of April 2013 and 38 are under construction. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) expects that the remaining 35 schools foreseen in the Plan will be completed during 2015.

16. As a consequence of Israel's policy of restricting the granting of travel permits to the West Bank for other than humanitarian grounds, and only in exceptional cases, universities and educational institutions in Gaza must resort to videoconferencing with their West Bank counterparts, which greatly limits the opportunities for educational and scientific cooperation.[13]

Access-restricted areas[14]

17. The access-restricted areas are designated by the military as no-go areas for Palestinians, which were first enforced by Israel in 2000 in an area of 150 metres inside Gaza from the fence between Gaza and Israel.[15] In May 2009, this area was extended to 300 metres.[16] Since the ceasefire understanding between the de facto authorities and Israel in November 2012, access to land has increased, but Israeli authorities continue to prohibit access up to 300 metres from the fence in most areas. As of May 2013, the access restrictions were not being enforced as far or as frequently beyond the 300-metre mark as they had been prior to November 2012. Nevertheless, the improved access since November 2012 remains limited and precarious, owing to inconsistent information conveyed to Palestinian communities by various Israeli authorities.

18. Between 21 November 2012 and 30 June 2013, four Palestinian civilians were killed and 112 injured by the Israel Defense Forces (IDF) in the areas up to and at times beyond 300 metres from the fence. In separate incidents during June 2013, three Palestinians were shot with live ammunition by IDF in the access-restricted areas: a day-labourer on his way to harvest watermelons in Jabalia, northern Gaza, was shot and injured by IDF about 400 metres from the fence; a gravel collector was

[12] World Health Organization Special Report, "Right to health: barriers to health access in the occupied Palestinian territory, 2011 and 2012", March 2013.

[13] Pal-Think for Strategic Studies, "The impact of the Gaza blockade on the higher education sector".

[14] The present report provides an update on the continued imposition of access restrictions on land and at sea and should be read in conjunction with the report of the High Commissioner for Human Rights (A/HRC/22/35).

[15] Diakonia International Humanitarian Law Program, Legal Analysis Report 1, "Within range: an analysis of the legality of the land 'buffer zone' in the Gaza Strip", 2011.

[16] Ibid. See also Al Mezan Center for Human Rights, "Displacement in buffer zone three years after Operation Cast Lead". Available from www.mezan.org/.

shot and injured in his upper back about 60 metres from the fence in Khan Younis, southern Gaza; a farmer working on his field was shot and injured in his leg about 400 metres from the fence in the Middle Area of the Gaza Strip. None of these individuals was given prior warning, and there is no indication that any of them constituted an imminent threat to IDF at the time of the shootings.[17]

19. The 1993 Oslo Accords also provided for 20 nautical miles from the Gaza shore as a fishing zone for Palestinians. During the second intifada, the fishing zone was restricted by Israel. At times, fishing by Palestinians was completely prohibited. In 2002, Israel committed to extending fishing up to 12 nautical miles. This commitment was, however, never fulfilled. In 2006, Israel announced that fishing activities beyond 6 nautical miles from shore were prohibited, and in January 2009, Israel reduced the fishing area to 3 nautical miles.[18] The fishing area was then extended from 3 to 6 nautical miles, following the ceasefire understanding of November 2012. However, the fishing zone was reduced to 3 nautical miles in response to rocket fire from Gaza on 21 March. This reduction remained in force until 21 May 2013, when the fishing zone was reset to 6 nautical miles. It is important to note that the reduction of the fishing zone from 21 March to 21 May coincided with one of the most lucrative fishing periods of the year. While the fishermen's catches increased with access up to 6 nautical miles from shore, they were still denied access to the most productive fishing areas, which start at approximately 8 nautical miles. The restrictions have devastated the Palestinian fishing industry. It is notable that while in 2000 approximately 10,000 fishermen were registered in the Gaza Strip, currently there are only 3,500 registered, and at least 95 per cent of them rely on international aid.

20. In recent months, OHCHR has recorded a slight decrease in the number of deaths and injuries as a result of action by IDF in the access-restricted areas on land. Between January and June 2013, 2 persons were killed and 31 injured in access-restricted areas on land, compared with 5 persons killed and 105 injured between July and December 2012.

C. West Bank

Access, movement and continued construction of the wall

21. Israeli authorities, citing security concerns, maintained comprehensive control over Palestinian movement throughout the West Bank, including between East Jerusalem and the rest of the West Bank, and between the centre of East Jerusalem and its surrounding communities. Movement restrictions include the wall, checkpoints, roadblocks, trenches, earth mounds, tunnels/underpasses and gates and a permit regime. These restrictions impact the right to freedom of movement of the Palestinian population and its access to adequate housing, education, health, work, family life and agricultural land and other natural resources. Combined with the discriminatory policies outlined below, this results in a coercive environment that often compels Palestinians to leave these areas, especially for Palestinians living in

[17] Cases monitored by OHCHR.

[18] Al Mezan Center for Human Rights, "Gaza fisherman: life with poverty, harassment and suffering".

Area C — in particular, military zones and the seam zone[19] — but also for Palestinians living in East Jerusalem. The result is the further fragmentation of the West Bank, which undermines the geographical and demographic integrity, contiguity and unity of the Occupied Palestinian Territory.

22. The construction of the wall continues to be a major concern because of the restrictions it entails on the movement of Palestinians throughout the West Bank. If the wall is completed as planned, 9.4 per cent of the West Bank, including East Jerusalem will be isolated from the rest of the Occupied Palestinian Territory. Approximately 62 per cent of the planned route of the wall is already completed. A further 10 per cent is under construction and 28 per cent is planned but construction has not yet been implemented. If construction of the wall were to be implemented as planned, at least 260,000 Palestinians living in the districts of Jerusalem, Jenin, Qalqilya and Bethlehem would be trapped between the wall and the Green Line. Of that number, at least 28,000 Palestinians from rural communities would be surrounded by the wall on all sides. They would be completely isolated from the rest of the West Bank, would live in a closed area, and their movement would be fully controlled by the Israeli military. Another 127,000 Palestinians would only be able to move through one single entry point controlled by Israeli security forces. Therefore, Palestinians who live in those areas are presented with the option of either staying in their homes with severe restrictions on their freedom of movement or moving and living in communities east of the wall.

23. At present, around 11,000 Palestinians live in 32 Palestinian communities located between the wall and the Green Line in the so-called seam zone. The communities depend on permits or special arrangements granted by the Israeli authorities in order to access their own homes. Relatives and friends who need to access this area on a daily basis, or on an urgent or ad hoc basis, for example for a funeral or other major family or social gathering, need different permits. The process for obtaining such a permit is reportedly inefficient and some Palestinians do not obtain permits in a timely manner. In short, the permit regime employed in the seam zone does not allow Palestinian residents to live a normal family life or to study, work or steadily cultivate land.

24. By way of example, a Palestinian family living in Al-Walaja village, located between Jerusalem and Bethlehem, is one of several communities affected by the ongoing construction of the wall in the West Bank. The family members (husband, wife and their three children) live in a house located along the route of the wall. When completed, the family's house will be isolated from the rest of the village. The only access point for the family between their home and the village will be through a tunnel built under the wall by the Israeli authorities. The family fears that this will further diminish their freedom of movement and access to their agricultural lands.[20] It would also isolate them from their community.

25. In areas where the wall is already constructed, Palestinian farmers have been separated from their agricultural lands and livelihood and their access to agricultural lands on the other side of the wall is limited by the Israeli permit and gate regime.

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[19] The seam zone is the section of Palestinian land located between the wall and the 1949 Armistice Line (the Green Line), which has been isolated as a result of the construction of the wall.

[20] See UNRWA, "The International Court of Justice opinion on the wall — nine years later", 10 July 2013.

Farmers are only able to access their agricultural lands west of the wall after obtaining permits to access one of the 74 gates controlled by the Israeli military. Some of these gates are permanently closed during the year and only 52 of them were opened at specific times during the olive harvest in 2012 (October-December). Furthermore, access by farmers to the agricultural lands in the vicinity of Israeli settlements in the West Bank has remained significantly constrained owing to widespread settler violence. Access to those areas is possible only through advance coordination with IDF.

26. Israeli authorities continued to take measures and impose restrictions that isolate East Jerusalem from the rest of the West Bank. Those measures include the continued construction of the wall and the presence of checkpoints. The separation of East Jerusalem from the rest of the West Bank has had a serious impact on the social, economic and cultural life of Palestinians in the city, which was formerly a centre for the surrounding communities. Since September 2000, Palestinian holders of West Bank identification cards have been required to hold a special permit granted by Israel to access East Jerusalem. These permits have been difficult to obtain and can be cancelled without notice.

Demolitions, displacement and revocation of residency rights

27. The destruction of Palestinian-owned property, combined with the displacement of Palestinian civilians, continued throughout the reporting period. Israel, as the Occupying Power, has an obligation to protect the Palestinian population at all times and to administer the territory for their benefit, ensuring that their basic needs are met.[21] Article 53 of the Fourth Geneva Convention of 1949 generally prohibits the destruction of property. It states: "Any destruction of the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organization, is prohibited". According to the Office for the Coordination of Humanitarian Affairs, 602 Palestinian structures were demolished during the reporting period in the West Bank, of which 214 were residential structures and 388 agricultural and livelihood structures. Seventy-one of the demolished structures were located in East Jerusalem. The demolitions were in many cases preceded by the forced eviction and resultant displacement of Palestinians, amounting to 894 during the reporting period, including 470 children. Most demolitions are carried out under the pretext that the construction was illegal, while at the same time Israel makes it extremely difficult to obtain construction permits.

28. The revocation of residency rights for Palestinians living in East Jerusalem continued to be a concern. Palestinian residents of East Jerusalem received their status as permanent residents following the occupation of East Jerusalem in 1967.[22] Under Israeli law, residents of East Jerusalem are treated as aliens whose status can be revoked, with no regard for their circumstances as protected persons under international humanitarian law (see A/67/372, para. 38). According to data supplied by the Israeli Ministry of Interior to a local NGO, Israel revoked the residency

[21] Art. 43 of the Hague Regulations and arts. 50, 55, 56 and 60 of the Fourth Geneva Convention of 1949.

[22] The status is defined in the Law on Entry into Israel, which also addresses the entry of individuals as tourists and their stay as immigrants.

rights of 116 East Jerusalem Palestinians, including 64 women and 29 minors, in 2012. Also in 2012, Israel reinstated the residency status of 32 East Jerusalem Palestinians.

D. Accountability

29. Under international humanitarian law and human rights law, duty-bearers are obliged both to take appropriate measures to prevent violations of the law and to ensure accountability for violations that are committed, including through the provision of effective remedies to victims. In this context, the Secretary-General notes the second report of the Turkel Commission, which was submitted by the Commission to the Government of Israel on 6 February 2013. The Turkel Commission was established in June 2010 by the Government of Israel following the killing of nine civilians by IDF soldiers during an interception at sea of a humanitarian flotilla sailing from Turkey for Gaza in an attempt to break the naval blockade imposed by Israel on the Gaza Strip. The mandate of the Commission was to examine the mechanisms used by Israel for examining and investigating complaints of violations of the laws of armed conflict according to international law. In its second report, the Commission affirmed the duty to investigate under international law when there is a reasonable suspicion of serious (and other) violations of international law, and affirmed that an investigation must be conducted that adheres to the standards of independence, impartiality, effectiveness, thoroughness, promptness and transparency. These investigative standards have been recognized in previous United Nations reports concerning Israel.[23] According to the information available, the Government of Israel has yet to appoint an independent team to monitor the implementation of the recommendations contained in the report of the Commission. Nevertheless, it is hoped that the relevant recommendations of the Turkel Commission will aid in ensuring accountability and effective remedies for victims of violations of international law in the Occupied Palestinian Territory.

Accountability in relation to the Gaza Strip

30. Serious concerns remain in relation to accountability for violations of international humanitarian law and human rights law that have been allegedly committed by IDF and the de facto authorities in the Gaza Strip. Information available indicates that neither Israel nor the de facto authorities in Gaza have taken adequate measures to assess the credibility of allegations of violations and, where necessary, carry out effective investigations.[24]

31. On 11 April 2013, the Military Advocate General, which is responsible for investigating allegations of violations of international humanitarian law and human rights law committed by IDF, issued a public document indicating that it found no basis for opening criminal investigations into approximately 65 incidents during operation "Pillar of Defence/Pillar of Cloud" and that, with respect to 15 other incidents, additional information was required in order to make a decision about

[23] Goldstone Report (A/64/490); Tomuschat Report (A/HRC/15/50); A/HRC/22/35; A/HRC/24/30, para. 46.

[24] The escalation of hostilities from 14 to 21 November 2012, referred to as operation "Pillar of Defence/Pillar of Cloud" by Israel, was addressed in document A/HRC/22/35/Add.1.

whether to open an investigation. While the decision of the Military Advocate General to publicly issue an update is a positive development, it failed to provide sufficient information about the reasons not to open a criminal investigation into any of the incidents under consideration, in particular in the case of incidents where the evidence suggested that a violation of international humanitarian law had been committed (see A/HRC/24/30, para. 8).

32. The fact that in all of the 65 incidents from operation "Pillar of Defence/Pillar of Cloud" no grounds were found to open an investigation (i.e., there was no reasonable suspicion that a violation had occurred nor that a violation had actually been committed) contributes to concerns about the independence of the investigative process. The fact that the Military Advocate General both provides legal advice and undertakes the prosecution appears to go against a basic premise of accountability, which is that an individual or entity directly involved in an incident cannot investigate it. In that regard, it is regrettable that the Turkel Commission decided to recommend keeping this "dual-hat" of the Military Advocate General, as head of the military prosecution system and legal adviser to the Israeli military authorities. On a positive note, however, it appears that the effort of the Military Advocate General to undertake preliminary investigations into incidents that occurred during operation "Pillar of Defence/Pillar of Cloud" differs from the usual practice of relying on operational debriefings carried out by the commander of the unit that was involved in the incident in question, in order to decide whether to open an investigation. This is consistent with the recommendations of the Turkel Commission on limiting the use of debriefing by the Military Advocate General to an operational function. It is hoped that the recommendations of the Turkel Commission concerning investigations are officially adopted and implemented as soon as possible in order to rectify some of the problems concerning the independence of such investigations.

33. In respect of the de facto authorities in Gaza, it appears that more than seven months after the end of the escalation in hostilities, no measures have been taken to investigate credible allegations of violations of international law committed by the de facto authorities or armed groups in Gaza, or to provide an effective remedy to victims of the hostilities of November 2012. No information is available in the public domain to indicate that credible investigations have been conducted, in particular following from the direct targeting of civilians and the indiscriminate firing of rockets towards Israel, as well as the summary execution of alleged collaborators.[25]

34. The ceasefire understanding that brought an end to the hostilities of November 2012 was generally observed by Israel and the de facto authorities in Gaza. In the period after March 2013, however, there were a number of incidents in breach of the ceasefire. According to the Department of Safety and Security of the Secretariat, 52 rockets and 17 mortar shells were fired from Gaza towards Israel, including 2 rockets that were intercepted by Israeli missile defence systems.[26] While no injuries or deaths were reported, those rockets are generally inaccurate and do not allow their operators to distinguish between military targets and civilians. They are therefore indiscriminate in nature and thus in violation of international law. A Salafist jihadist

[25] This is of particular concern following the findings of the recent report of the High Commissioner for Human Rights (A/HRC/22/35/Add.1).

[26] An additional 2 rockets and 5 mortar shells fell short and landed in Gaza, 2 rockets exploded at the launching site and 16 test rockets landed in the sea.

armed group called the Mujahideen Shura Council claimed responsibility for at least some of the rockets fired. The de facto authorities reportedly arrested at least two persons who were alleged to have been involved in firing rockets following the ceasefire understanding of 21 November 2012. Still, it is estimated that a greater number of members of armed groups are responsible for rocket attacks and there is no information available to indicate that necessary steps have been taken to carry out effective investigations into these incidents and determine all those responsible and hold them accountable (see A/HRC/22/35/Add.1).

Accountability in the West Bank

35. As noted in previous reports, in April 2011, the Military Advocate General announced a policy of automatically launching a military police investigation in every case in which an "uninvolved" civilian was killed by a soldier in the West Bank (see A/66/356, para. 18). This threshold was supported and further developed by the Turkel Commission, which recommended that, in the West Bank, an investigation should be opened immediately in cases of civilian death or serious injury. This was based on the important observation contained in the report of the Commission that the default legal regime applicable during occupation is human rights law. Therefore, all serious injuries and deaths that occur in the West Bank warrant immediate investigation according to the standards of international law. This is consistent with the way in which the legal obligations bestowed upon the Occupying Power have previously been interpreted by the Secretary-General (see A/67/372, para. 17). The Secretary-General welcomes the recommendation contained in paragraphs 68 and 69 of the report of the Turkel Commission that the law regulating the rights of victims to gain access to information about a criminal proceeding applies to all investigative mechanisms covering law enforcement incidents. The recommendations are yet to be implemented by the Israeli Government.

Update on killings and injuries by Israeli security forces

36. In view of the prevailing situation in the West Bank, most of the incidents that arise should be considered within a law enforcement context, namely, that Israeli security forces should abide by the general principles on the use of force by law enforcement officials, in particular, the principles of necessity and proportionality, as reflected in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, and the Code of Conduct for Law Enforcement Officials, 1979 (see General Assembly resolution 34/169, annex). In that context, the use of firearms is permitted only when strictly unavoidable in order to protect human life and investigations are required into all uses of lethal force. Investigations into all cases of deaths and serious injury must be undertaken in order to determine whether these incidents were carried out within the framework of applicable international law and standards so as to ensure accountability where any violations were committed and to prevent such casualties from occurring.

37. Israeli security forces operations in the West Bank resulted in the killing of 13 Palestinian civilians, including one woman and three children, in the period from 16 June 2012 to 1 July 2013. Six of the 13 civilians were shot and killed during clashes with Israeli security forces. In the context of clashes between Palestinians and Israeli security forces, on 19 November 2012, Hamdi Mohamed al-Fallah was shot and killed by an IDF soldier at close range in Hebron. According to an

eyewitness account collected by OHCHR, a group of Palestinian protesters were throwing stones at IDF soldiers who were firing tear gas canisters at them. Most demonstrators dispersed, but Mr. Al-Fallah remained. One of the soldiers reportedly dared him to approach, after which the unarmed man started walking towards the IDF soldiers. An IDF solider reportedly shot him in the knee with live ammunition. When he fell to the ground, the IDF soldier reportedly shot another two rounds in Mr. Al-Fallah's chest. Palestinian Red Crescent medics who arrived at the scene were initially denied access by IDF for 20 minutes before being allowed to inspect the victim, who in the meantime had died as a result of his injuries.[17]

38. Seven of the 13 Palestinian civilians killed were involved in incidents that took place outside of the context of demonstrations or clashes. On 29 July 2012, a Palestinian labourer was shot and killed when he tried to cross a checkpoint without a permit while driving with other labourers to his workplace in Israel (see A/HRC/22/35).[17] On 3 December 2012, Israeli soldiers shot and killed a Palestinian man. Prior to that incident, the car which the victim was driving reportedly crashed into an Israeli military jeep on the Nablus-Tulkarm road, causing the jeep to turn over and reportedly injuring some of the soldiers.[27] The Israeli Shin Bet (Israeli security agency) claimed that a number of their agents were travelling in a military jeep in the West Bank when a Palestinian car slammed into them, overturning their vehicle. The Palestinian driver then reportedly got out of the car and began attacking the agents with an axe. One of the agents reportedly shot and killed the Palestinian man. However, according to a Palestinian human rights NGO, the Israeli forces reportedly killed the man after crashing into his car with their military vehicle on the road between Nablus and Ramallah cities in the north of the West Bank. As a result, the victim's car rolled over and was badly damaged in the front. When the victim came out of the car, Israeli soldiers allegedly immediately shot and killed him.[28] On 12 December 2012, a 17-year-old Palestinian boy was fatally shot by a border policewoman at a checkpoint in Hebron. The victim was shot with live ammunition. A medical report indicates the presence of two entry wounds in the chest as a result of live fire shot at close range. Eyewitnesses who gathered after the shooting indicated that the Israeli soldiers did not let anyone collect the victim. An Israeli ambulance came within 30 minutes and took the body to Kiryat Arba'a settlement. At around 23.30, an Israeli ambulance handed the body over to a Palestinian ambulance. On 12 January 2013, a Palestinian man was shot and killed near the wall while attempting to cross illegally into Israel for work. On 15 January 2013, a boy was shot and killed near a fence erected by IDF on the outskirts of Budrus village. On 18 January 2013, a 15-year-old child was shot and killed by IDF soldiers staffing a watch tower at the entrance of Ayda refugee camp. On 23 January 2013, a woman was shot and killed when she was leaving the college where she studied, in Arrub refugee camp.[29]

39. In the first half of 2013, there was a marked increase in the number of civilians shot and killed by Israeli security forces, which further heightened long-standing concerns about excessive force against civilians through the use of live ammunition (see A/65/366, A/66/356 and A/67/372). While nine Palestinian civilians were killed

[27] OHCHR was not able to monitor the case owing to the lack of witnesses.

[28] Palestinian Centre for Human Rights, weekly report on Israeli human rights violations in the Occupied Palestinian Territory, 29 November-5 December 2012.

[29] Cases monitored by OHCHR. See also A/HRC/24/30.

during all of 2012, eight civilians were killed by Israeli security forces in the first six months of 2013.

40. Injuries caused by Israeli security forces increased by 72 per cent by mid-2013, rising to 434 per month from an average of 252 per month in 2012. According to the Office for the Coordination of Humanitarian Affairs, this is the highest monthly average since it began recording such injuries in 2005. In the period from 16 June 2012 to 30 June 2013, 4,117 Palestinians were recorded as having been injured in the course of demonstrations and clashes and settler-related incidents and during ISF search and arrest operations. Of those incidents, 122 Palestinians were injured by live ammunition, compared with 15 such injuries in the period from 1 July 2011 to 15 June 2012.

41. Rubber-coated metal bullets were frequently used by the Israeli security forces in the West Bank as a method of crowd control. Owing to their potentially lethal nature, the Israeli military's open-fire regulations allow their firing only towards demonstrators' legs. During the reporting period, injuries caused by such bullets significantly increased. More Palestinians were injured from the bullets in the first half of 2013 than in all of 2012 or 2011 (1,047 persons compared with 756 and 360, respectively).[23]

42. Between 1 July 2012 and 30 June 2013, IDF conducted approximately 3,000 operations in Palestinian communities in the West Bank, excluding East Jerusalem, and arrested 1,621 Palestinians, including 229 children and 14 women. This appears to have contributed to the reported increase in injuries caused to Palestinians as a result of the manner in which such operations were conducted. They often occurred at night and IDF regularly broke into Palestinian houses, often accompanied by military dogs, while the inhabitants were sleeping. These arrest operations frequently turned violent, resulting in injuries to the civilian inhabitants and damage to civilian property.

43. One arrest operation that merits special attention owing to the number of civilian injuries was that conducted by an undercover unit on 1 January 2013, in an apparent attempt to arrest two Palestinian brothers living in Tammun, north-east of Nablus city, in the north of the West Bank. One of the men was arrested; the other escaped. Shortly thereafter, clashes erupted between youths from the town and Israeli security forces. More than 15 Israeli military vehicles raided the town and clashes lasted throughout the day. According to the Palestinian Red Crescent Society, the operation resulted in the injury of 51 Palestinians, including 4 by live ammunition, one serious injury in the hand as a result of being attacked by a military dog, several injuries from rubber-coated metal bullets and several cases of suffocation from tear gas.[17]

Lack of accountability for Palestinian police and security forces committing human rights violations

44. During the reporting period, the Palestinian Independent Commission for Human Rights continued to receive allegations of ill-treatment, sometimes amounting to torture, by the Palestinian security services. The Commission reported receiving 172 allegations of ill-treatment in the West Bank in 2012, and 98 similar complaints in the period from 1 January to 30 June 2013. OHCHR monitored cases involving cruel, inhuman, degrading treatment and torture committed by Palestinian intelligence agencies in Palestinian detention facilities. OHCHR raised its concerns

with these agencies and is currently working on the revision of internal codes of conduct of the General Intelligence Service and the Palestinian Preventive Security.

45. One Palestinian man was arrested by the General Intelligence Service on 20 February 2013 and was held in detention by decision of a military court. The detainee informed OHCHR that he had been put in solitary confinement on arrival at the General Intelligence Service detention centre in Jericho. He was allegedly forced to stand and was not allowed to sleep for hours. On 22 February, he was handcuffed behind his back and forced to sit on a low chair for 1 to 2 days, after which he was interrogated again. In the following days, he was forced to stand for hours with arms lifted and was deprived of sleep. On 28 February, his hands were tied behind his back and he was suspended by ropes from a window, making him hang 5 cm above the floor. The guards told him to "fly like an eagle". When interviewed, he informed OHCHR that he still suffered from pain in his arms, chest and back. As a consequence of this treatment, he noted that he had agreed to confess to "anything". Subsequently, he was put in solitary confinement for 27 days. During that time, he was allegedly forced to sign a confession that was later used against him in court.[17]

46. With regard to steps taken to ensure accountability, according to the Palestinian Independent Commission for Human Rights, there were at least five committees formed to investigate specific allegations of violations perpetrated by various Palestinian security services. However, in all cases, the findings of those committees were not made public. For example, the findings of the committee formed by the Ministry of Interior to investigate the death of a Palestinian at the Corrections and Rehabilitation Centre of Tulkarm in August 2012 were never published. Moreover, following assaults by Palestinian police against peaceful protestors at the end of June and the beginning of July 2012, the President formed a committee to investigate the incidents. The committee comprised independent figures, civil society organizations and political parties. A report on the incidents was drafted and recommendations were submitted to relevant authorities. When the report was published, information regarding the measures taken against the perpetrators had been omitted. While some police officers were transferred to other positions as a disciplinary sanction, no judicial measures were taken. The Secretary-General finds it regrettable that the work of the committee investigating alleged human rights violations was undermined by the notable omissions regarding accountability.

47. Nevertheless, the Secretary-General welcomes the recent initial steps towards developing accountability mechanisms within the Palestinian security services. On 24 April 2013, the Palestinian Civil Police held consultations with relevant Palestinian authorities to discuss a draft accountability strategy that aims at enhancing general oversight within the Civil Police and strengthening the communication and relationship with the Palestinian public.

III. Recommendations

A. To the Government of Israel

48. **The Government of Israel must take all necessary measures to ensure the accountability of its security forces. It should conduct investigations into all credible allegations of violations of international humanitarian law and human**

rights law. Investigations must be independent, transparent, impartial, thorough, prompt, and effective. Redress for victims must be ensured.

49. **The Government of Israel should lift the blockade of Gaza and allow the free movement of civilians from and into Gaza according to the Oslo Accords, the Agreement on Movement and Access, and Security Council resolution 1860 (2009). Any measures that restrict the freedom of movement and transfer of goods must be consistent with international law.**

50. **Measures to enforce the access to restricted areas must comply with international law. In situations other than hostilities, these measures must be consistent with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In the context of hostilities, any enforcement of the access-restricted areas must comply with international humanitarian law.**

51. **The Government of Israel should take immediate steps to respect and ensure respect for the right to freedom of movement for Palestinians in the West Bank, including East Jerusalem. A first step should be to fully comply with the advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* of 9 July 2004.**

B. To the de facto authorities and Palestinian armed groups in Gaza

52. **Accountability must be ensured for violations of international humanitarian law and human rights law, in particular the killing of civilians, the indiscriminate firing of rockets towards Israel and summary executions, committed by the de facto authorities and armed groups in Gaza. Investigations must be independent, transparent, impartial, thorough, prompt, and effective. Redress for victims must be ensured.**

C. To the Government of the State of Palestine[30]

53. **The Government of the State of Palestine must take all necessary measures to ensure accountability of its security forces. It should conduct investigations into all credible allegations of violations of international humanitarian law and human rights law. Investigations must be independent, transparent, impartial, thorough, prompt, and effective. Redress for victims must be ensured.**

[30] In a letter dated 12 December 2012 to the Secretary-General of the United Nations, the Permanent Observer Mission of Palestine to the United Nations informed that, in line with General Assembly resolution 67/19, the designation "State of Palestine" should be used in all official documents of the United Nations. On 3 January 2013, Mahmoud Abbas, President, State of Palestine issued a decree instructing that "Official documents, seals, signs and letterheads of the Palestinian National Authority official and national institutions, shall be amended, by replacing the name 'Palestinian National Authority' whenever it appears by the name 'State of Palestine', and by adopting the emblem of the State of Palestine. The relevant authorities shall be in charge of monitoring the implementation of this Decree, taking into account the requirements of use".

54. **The Government of the State of Palestine should continue to take all necessary steps to establish effective accountability mechanisms, codes of conduct, standard operating procedures, and other guidance for security forces, in accordance with international human rights law and principles, and ensure their prompt and thorough implementation and operation.**

55. **When the Government of the State of Palestine establishes investigatory committees, their operation should be governed by clear and well-defined rules of procedure, in compliance with applicable international human rights law and principles, and with clear deadlines for the completion of their mandates.**